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IBM Corp. (DRE)(AUS)				
c/o Dreier LLP				
499 Park Avenue				
New York, NY 10022				
EXAMINER				
WHIPPLE, BRIAN P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/756,843

Applicant(s)

SECOR ET AL.

Examiner

Brian P. Whipple

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 4-23 are pending in this application and presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/21/08 has been entered.
3. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Arguments

4. Applicant's arguments, see page 5, filed 5/21/08, with respect to the claim objections of claims 5, 13, 16, and 22 have been fully considered and are persuasive. The corresponding claim objections of claims 5, 13, 16, and 22 have been withdrawn.
5. Applicant's remaining arguments filed 5/21/08 have been fully considered but they are not persuasive.
6. Applicant's arguments, see pages 5-6, directed to the 35 U.S.C. 101 rejection of claims 15-23 are not persuasive. Applicant argues the event broker is a module and that the server is within the logic layer. Examiner fails to see how a module and a server in the logical layer

are statutory embodiments and not software as previously discussed. A software module and a logical server are not statutory embodiments as defined under 35 U.S.C. 101.

7. Applicant argues, see page 7, O'Brien does not disclose the claimed "relationships defined by at least one data impact analysis data structure populated with data accessed from a plurality of data sources through the network." Examiner respectfully disagrees. O'Brien discloses appropriate actions being taken in relationship to specific network events, wherein an arbiter maps the network events to the actions which are performed (Fig. 2; Col. 4, ln. 38-40; Col. 4, ln. 66 – Col. 5, ln. 5). Mapping network events to appropriate actions is defining relationships.

Additionally, O'Brien discloses the data structure is populated with data accessed from a plurality of data sources (Col. 5, ln. 19-24, "scanner... analyzes... network"). Clearly a scanning agent accesses data on the network, the data being events recognized by SNMP traps (Col. 7, ln. 20-24), and a mapping table stores the previously discussed relationships between sensed events and appropriate actions (Col. 7, ln. 46-53).

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 15-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The applicant's previous claims were directed to a software system. These claims have been cancelled, but the specification still leads to the conclusion that the apparatus of the claimed invention may be implemented in software alone. For example, the abstract of the instant application is directed to an "impact analysis software system" (Abstract, ln. 1). Furthermore, the examiner does not see a mention of hardware or any description in the specification that would imply the apparatus is hardware alone. Software fails to fall into one of the four statutory classes of invention: process, machine, manufacture, or composition of matter.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 4-10 and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Brien et al. (O'Brien), U.S. Patent No. 6,470,384 B1.

12. As to claim 4, O'Brien discloses a method for handling network events generated in a network in an enterprise (Abstract; Fig. 2), the method comprising:

detecting at least one of a plurality of network events (Fig. 2; Col. 4, ln. 59-60); and
executing an action tree in response to the network event (Fig. 2; Col. 4, ln. 66 – Col. 5, ln. 5), the action tree including instructions based on relationships between enterprise-related data objects (Fig. 2; Col. 4, ln. 66 – Col. 5, ln. 5), the relationships defined by at least one data impact analysis data structure populated with data accessed from a plurality of data sources throughout the network (Fig. 2; Col. 4, ln. 66 – Col. 5, ln. 5; Col. 5, ln. 19-24).

13. As to claim 15, the claim is rejected for similar reasons to claim 4 above.

14. As to claim 5, O'Brien discloses the invention substantially as in parent claim 4, including identifying a workstation affected by the detected network event (Fig. 4; Col. 7, ln. 21-24);

determining at least one administrator (Fig. 2, item 27) and at least one business unit affected by the network event (Fig. 2; Col. 5, ln. 62 – Col. 6, ln. 3; Col. 9, ln. 63 – Col. 10, ln. 8); and

contacting the at least administrator regarding the detected network event (Fig. 2, items 27, 34, and 35; Col. 5, ln. 62 – Col. 6, ln. 3; Col. 9, ln. 63 – Col. 10, ln. 8).

15. As to claim 16, the claim is rejected for similar reasons to claim 5 above.

16. As to claim 6, O'Brien discloses the invention substantially as in parent claim 5, including the step of determining at least one administrator and at least one business unit includes the determination being made by traversing the impact data analysis data structure (Fig. 2; Col. 4, ln. 66 – Col. 5, ln. 5).

17. As to claim 7, O'Brien discloses the invention substantially as in parent claim 4, including the execution of the action tree is performed by a policy engine (Fig. 2; Fig. 3; Col. 6, ln. 15 – Col. 7, ln. 65).

18. As to claim 17, the claim is rejected for similar reasons to claim 7 above.

19. As to claim 8, O'Brien discloses the invention substantially as in parent claim 4, including the enterprise-related data objects include organization nodes that define the organizational structure of the enterprise (Fig. 2; Col. 4, ln. 66 – Col. 5, ln. 5; Col. 5, ln. 62 – Col. 6, ln. 3; Col. 9, ln. 63 – Col. 10, ln. 8).

20. As to claim 18, the claim is rejected for similar reasons to claim 8 above.

21. As to claim 9, O'Brien discloses the invention substantially as in parent claim 8, including the organizational structures include at least one of: a host (Col. 1, ln. 25-28), a communication device (Col. 4, ln. 38-40), a user (Abstract) and a document.

22. As to claim 19, the claim is rejected for similar reasons to claim 9 above.

23. As to claim 10, O'Brien discloses the invention substantially as in parent claim 8, including accessing the enterprise-related data objects through a networked database (Abstract; Fig. 2; Fig. 3; Col. 6, ln. 29-34; Col. 6, ln. 66 – Col. 7, ln. 8).

24. As to claim 20, the claim is rejected for similar reasons to claim 10 above.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 11-14 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien as applied to claims 4 and 15 above, in view of Park et al. (Park), U.S. Patent No. 5,708,820.

27. As to claim 11, O'Brien discloses the invention substantially as in parent claim 4, including the action tree (Fig. 2; Col. 4, ln. 66 – Col. 5, ln. 5), but is silent on hibernating a network structure, including saving a current state of the network structure to a state database.

However, Park discloses hibernating a network structure, including saving a current state of the network structure to a state database (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of O'Brien by hibernating a network structure, including saving a current state of the network structure to a state database as taught by Park in order

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to save the state of a network in the event of a failure until it can be properly addressed, at which time, resuming operation (Park: Abstract).

28. As to claim 21, the claim is rejected for similar reasons to claim 11 above.

29. As to claim 12, O'Brien and Park disclose the invention substantially as in parent claim 11, including the state database is within an impact server (O'Brien: Fig. 3; Park: Col. 1, ln. 20-25).

30. As to claim 13, O'Brien and Park disclose the invention substantially as in parent claim 11, including awakening the action tree from a hibernated state in response to a wakeup call message (Park: Abstract).

31. As to claim 22, the claim is rejected for similar reasons to claim 13 above.

32. As to claim 14, O'Brien and Park disclose the invention substantially as in parent claim 13, including the wakeup call message is an electronic mail message (O'Brien: Fig. 2, item 34; Park: Fig. 11).

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33. As to claim 23, the claim is rejected for similar reasons to claim 14 above.

Conclusion

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Whipple whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Fri (9:30 AM to 6:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Brian P. Whipple

/B. P. W./

Examiner, Art Unit 2152

5/31/08

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2146